

**SECOND CIRCUIT JUDICIAL COUNCIL
CJA and PRO BONO COMMITTEE**

NOTICE TO ALL CJA PANEL MEMBERS

Following audits conducted in other circuits, the Court recently undertook a rudimentary audit of vouchers that had been submitted to the courts of this Circuit. We are pleased to report that we did not discover any widespread problem with billing. However, a cross-check of vouchers in different cases uncovered a small number of cases in which CJA lawyers had billed what appeared to be excessive hours, including billing in excess of 24 hours in a single day. In one of those cases, the lawyer in question stated that the problem arose because he did not keep contemporaneous time records, but rather “reconstructed” his hours after the fact. Needless to say, that response is unsatisfactory.

Accordingly, the CJA and Pro Bono Committee of the Court concluded that it was important to remind CJA Panel members of some basic rules governing the submission of vouchers. All lawyers appointed to the CJA Panels of the district and circuit courts of the Second Circuit are required to maintain contemporaneous billing records for all work performed on CJA cases to which they have been assigned. *See Guide to Judiciary Policy*, Vol. 7, Part A, Chapter 2, § 230.73.20. Appointed counsel must maintain contemporaneous time records for all work performed, including work performed by associates, partners, and support staff, as well as expense records. *Id.* CJA counsel also are required to maintain these records for a period of no less than three years for audit purposes. Counsel should be aware that we do audit and cross-check vouchers in a number of ways that are designed to bring to light unusual or questionable billing practices.

It is particularly important that counsel maintain records that will permit them to document and justify high numbers of billable hours in a day. Of course, lawyers often work long days, particularly during trials. However, lawyers should expect that billing in excess of fifteen hours in a single day – especially when such billing is not associated with a trial – may be questioned. Lawyers should maintain billing records in sufficient detail to be able to document and justify extreme numbers of billable hours. At the request of the Committee, court staff will perform regular audits of CJA vouchers and, where over-billing is identified, seek reimbursement of the over-paid amounts. Inability to document and justify billing may result in a reduction of the requested CJA voucher payment or in a request for reimbursement.

We are confident that the vast majority of Panel lawyers in this Circuit already adhere to proper billing practices, and that abuse of the system is rare. However, the Court needs to take whatever steps are appropriate to carry out its responsibility for safeguarding public funds.

Gerard E. Lynch
United States Circuit Judge
Chair, Second Circuit CJA Committee

Dated: December 7, 2010
New York, New York